

**Report to:** Licensing Sub-Committee

**Date:** 7 April 2022

**Title:** Application for a Review of a Premises Licence The Best Kebab 14 Langney Road Eastbourne BN21 3EU

**Report of:** Director of Service Delivery

**Ward(s):** Devonshire Ward

**Purpose of report:** To review a Premises Licence for The Best Kebab under the Licensing Act 2003.

**Officer recommendation(s):** To Review the licence granted to the premises known as The Best Kebab under the Licensing Act 2003

**Reasons for recommendations:** To determine the Review application submitted by Sussex Police

**Contact Officer(s):** Name: Dean Love  
Post title: Specialist Advisor - Licensing  
E-mail: dean.love@lewes-eastbourne.gov.uk  
Telephone number: 07919 541 488

---

## 1 Introduction

- 1.1 Eastbourne Borough Council received an application for a Review of a Premises Licence under the Licensing Act 2003 for The Best Kebab 14 Langney Road Eastbourne BN21 3EU from Sussex Police on 9 February 2022.
- 1.2 At any stage, following the grant of a premises licence, a Responsible Authority or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The Review application is included along with additional evidence at **Appendix 1**.
- 1.3 The Police have called this Review due to several breaches of the premises licence by opening after 03:00am and because the Police consider that the Best Kebab are encouraging users of the night time economy to remain in the area resulting in public place violence and anti-social behaviour . The Police have also issued warning letters to the premises.
- 1.4 The grounds for the review relate to the following Licensing objectives:
- Prevention of Crime of Disorder
  - Public Safety

## 2. Consultation Process

- 2.1 Following receipt of the review application from Sussex Police this review was advertised for a period of 28 days in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

## 3. Supporting Representation Received

- 3.1 During the consultation period the Licensing Team (as a Responsible Authority) submitted a representation in support of the review application. That is attached, along with a copy of the warning letter sent, as **Appendix 2**.

## 4. Representations

- 4.1 Interested Parties – No representations have been received.

- 4.2 The following summarises whether representations have been received from responsible authorities:

- **Sussex Police** – Applicant for the review.
- **Eastbourne Borough Council (Specialist Advisor) Environmental Health** – No representation.
- **Eastbourne Borough Council (Specialist Advisor) Health and Safety** – No representation.
- **Eastbourne Borough Council (Specialist Advisor) Planning** – No representation.
- **Eastbourne Borough Council (Specialist Advisor) Licensing** – Representation received.
- **East Sussex Fire and Rescue Service** – No representation.
- **Area Child Protection Team** – No representation.
- **Trading Standards (East Sussex County Council)** – No representation.
- **Primary Care Trust** – No representation.

## 5 Background of Premises

- 5.1 The Premises Licence was first issued on 15 September 2005 for the licensable activity of Late Night Refreshment.

Opening times	10:00 – 03:00
Light Night Refreshment	23:00 – 03:00

- 5.2 No variations to the licensable activities or conditions have been received since the licence was first granted back in 2005.

- 5.3 Mr Hayder Rasul, who was the Premises Licence Holder when the Review was served, was the premises licence holder from 18 January 2021 until 10 March 2022.

5.4 The Premises Licence was transferred to Mr Heman Rasul from Hayder Rasul on 10 March 2022.

5.5 The current Premises Licence can be found at **Appendix 3**.

## **6 The Decision Making Process**

6.1 At this hearing the Licensing Sub Committee must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives.

6.2 The Sub-Committee are asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005 (as amended).

## **7 Eastbourne Borough Council's Statement of Licensing Policy & Section 182 Guidance**

7.1 Copies of the Council's Statement of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members' Room.

7.2 Whilst each application will be considered on its merits, the Licensing Sub-Committee will act to promote the four licensing objectives and have due regard to:

- Eastbourne Borough Council's Statement of Licensing Policy 2019 - 2024.
- Section 182 Guidance issued by the Home Office.

7.3 Eastbourne Borough Council's Statement of Licensing Policy outlines the matters that the Authority will consider when determining matters under the Licensing Act 2003. An overview appears below and are numbered as in Policy.

29.3 Revocation or suspension of premises licences or certificates will normally be considered where offences, such as sale of alcohol to persons who are drunk or sale of alcohol to persons under 18, occur on a regular basis. Review proceedings are often the last stage in a process where other steps have failed to address the issues that may arise:

- Action needed should seek to promote the licensing objectives but be balanced against the financial impact on the business.
- Action should be proportionate.
- Action should support the local community safety, crime reduction and drugs strategies, particularly those relating to alcohol misuse.

- 29.6 Section 182 Guidance, the Guidance, issued in connection with the Licensing Act 2003 stipulates that any representation made must be in writing, relate to particular licensed premises and be relevant to the promotion of the four licensing objectives.
- 29.7 The value of detailed evidence to support a representation cannot be over emphasized. Persons making a representation can attend the Review hearing. The person making the representation can amplify this at the hearing, but not extend this to other matters outside of the original representation.
- 29.8 Partnership working and warnings:

The Guidance further states that the promotion of the licensing objectives relies heavily upon partnership working with licence holders, authorised persons, any other person and Responsible Authorities in the pursuit of common aims and objectives. Reviews should not be used as a mechanism to create divisions between these groups to the extent that it undermines the benefits of co-operation and partnership working.

The Guidance recognises that it would be good practice for authorised persons and responsible authorities to give licence-holders early warning of their concerns about problems identified at the premises or in the vicinity of the premises where this can be linked back to the site and of the need for improvement. Failure to respond to these warnings or a Premises Action Plan is expected to lead to a decision to request a review of the premises licence or certificate.

## **8 Prevention of Crime and Disorder**

### **8.1 The Licensing Authority will have regard to:**

(i) The physical security features installed in the premises including: design and layout of the premises in minimising the opportunities for crime and conflict, provision of CCTV and associated recording equipment, display of crime prevention material raising patrons awareness of crime, noise, nuisance and safety issues, adequate lighting levels in the premises, metal detection and search facilities, the use of toughened /shatterproof and plastic drinking vessels within the area covered by a premises licence.

(iii) The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;

(vi) The measures taken to control admission to the premises, including the use of Security Industry Authority (SIA) licensed door supervisors.

(vii) Any other such measures as may be appropriate, including; participation in a local Pubwatch or Nightwatch scheme, or other body designed to ensure effective liaison and partnership with the local community, the use of 'music wind-down policies' and 'chill out areas'.

(viii) Measures to effectively control the premises during key events, for example; during sporting events, during Freshers Week, Airbourne and other significant times.

(ix) Other examples of industry Best Practice.

(xi) Steps taken to train staff in licensing law and raise awareness of issues in relation to licensed premises, including; excessive consumption of alcohol, underage and proxy sales of age restricted products, drug misuse and associated crime prevention strategies.

8.2 Where licensed premises are found to cause nuisance or be associated with disorder, unreasonable disturbance, powers of revocation or the imposition of conditions may be considered. Conditions may include:

- The installation and use of CCTV and associated recording equipment to a standard specification
- Inclusion of a drugs and search policy of customers
- The use of SIA registered door supervisors
- Earlier closing times or last admissions time
- Action Plans for premises failing to meet the required standards
- Closure Orders
- Review and revocation proceedings
- Use of other mechanisms to effectively control an area where there is alcohol related crime and disorder, including powers under the Violent Crime Act 2006.

## **9 Options open to the Sub-Committee**

9.1 The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the Licensing Objections and may:

- modify the conditions of the licence
- modify the times licensable activities can take place
- exclude a licensable activity
- issue a warning
- take no action
- suspend the licence for a period not exceeding 3 months, or
- revoke the licence.

9.2 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-case basis. The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

## **10 Right of Appeal**

- 10.1 An appeal made to the Magistrates' Court within 21 days of the appellant being notified of the decision. An appeal may be made by the applicant for the review, the premises licence holder or any other person who has made a relevant representation.
- 10.2 The determination of the Licensing Sub Committee will have no effect until the end of the period for the appeal as passed or until the disposal of the appeal

## **11 Financial**

- 11.1 The cost of delivering the licensing function is fully covered by the Licensing fees.
- 11.2 A decision made by the Sub Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

## **12 Legal implications**

- 12.1 Under section 51 2003 Act a Responsible Authority or any other person may apply for a review of a premises licence. Under section 52 the licensing authority before determining the application must hold a hearing. At the hearing the Licensing Sub Committee must having regard to the application and any relevant representations take such steps as it considers appropriate for the provision of the licensing objectives.
- 12.2 The Legal section considered this Report on 24 March 2022 (Iken 10871 - EBC-MW).

## **13 Risk management implications**

- 13.1 There are no risks associated with the content of this report.

## **14 Equality analysis**

- 14.1 An Equality Analysis is not constructive in this instance.

## **15 Environmental sustainability implications**

- 15.1 There are no sustainability and/or carbon reduction implications associated with this report.

## **16 Appendices**

- 16.1
- Appendix 1 - Application for Review of Premises Licence and additional evidence
  - Appendix 2 - Representation from Licensing Authority
  - Appendix 3 - Existing Licence

## **17 Background papers**

17.1 The background papers used in compiling this report were as follows:

- Section 182 Statutory Guidance to the Licensing Act 2003 available [here](#)
- Eastbourne Borough Council Licensing Statement 2019-2024 available [here](#)